

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

PATRICIA MCCOLM,

Plaintiff(s),

No. C 02-5810 PJH

v.

**ORDER DENYING REQUEST FOR  
STAY OR CONTINUANCE**

SAN FRANCISCO HOUSING  
AUTHORITY, et al.,

Defendant(s).

Before the court is yet another last-minute request from plaintiff, this time to vacate tomorrow's hearing of defendants' motions for summary judgment. Plaintiff further requests that the hearing not be rescheduled until she has recovered from emotional distress and acute illness. She provides no estimate as to when this might occur, although she says that her doctor has suggested eight weeks. All defendants oppose her request.

Having denied similar requests for a continuance or to stay on April 9, 2007 and May 8, 2007, and in view of time constraints presented by yet another request presented so close to the event sought to be continued, the court has neither the time nor the inclination to once again set forth the lengthy procedural history of this case. Instead the court incorporates by reference the prior two orders denying similar requests and makes the following additional observations.

Dispositive motions are due to be heard tomorrow, May 23, 2007. Trial is scheduled to commence on July 30, 2007, which means that pretrial papers must be filed by June 29, 2007. The court is unavailable for most of the month of June, which means that any ruling on dispositive motions must be made before the period of the court's unavailability begins

1 on June 4, 2007. The court has repeatedly advised the parties that the trial would not be  
2 continued given the age of this case and the other factors referenced by the May 8, 2007  
3 order.

4 Plaintiff has requested (and been granted) one or more continuances of almost  
5 every deadline that has been imposed by this court or by the federal or local rules, for  
6 reasons having to do with her own health, the health of family members, or other litigation  
7 in which she is involved. Similarly, this latest request is based on what plaintiff refers to as  
8 emotional distress and acute illness and what her physician refers to as both “asthma and  
9 chronic bronchitis” and “acute medical condition and unavoidable life stressors.” Decl.  
10 George Fulmer, M.D. ¶ 5. As the court has already ruled on requests to stay the  
11 proceedings for these reasons, the court will not revisit those rulings here.

12 The one thing that distinguishes this request from past requests, is that plaintiff now  
13 advises that her ailing father has passed away. Plaintiff does not provide, however, any  
14 indication as to the date of his death or any details that might permit the court to determine  
15 if the hearing conflicts with his funeral or whether a brief continuance might accommodate  
16 her needs. Moreover, counsel for defendant previously filed a notice of unavailability for  
17 the period May 26, 2007 to June 17, 2007, so even a brief continuance might not be  
18 possible.

19 In short there is no way to accommodate plaintiff without continuing the trial date.  
20 The court declines to do so for all of the reasons stated in the prior orders and for two  
21 additional reasons. First, it is difficult to assess the weight to be given to Dr. Fulmer’s  
22 opinion that plaintiff is “unable to attend to her legal duties or appear for court hearings at  
23 this time,” given that it is also his opinion that “it has been medically and emotionally  
24 *impossible* for plaintiff to attend to her legal duties such as preparation of sufficient  
25 documents or appear for competent argument *for months*.” (emphasis added) Decl. George  
26 Fulmer, M.D. ¶ 8. As noted by the court in the May 8, 2007 order, and by defendant A-  
27 1Security in its opposition to this last motion, plaintiff has indeed been physically able to  
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1 attend to her legal duties. She has filed no fewer than *ten* motions/requests in the last 90  
2 days, several of them voluminous, and all of them coherent. Thus, Dr. Fulmer's opinion is  
3 obviously not based on his personal knowledge of plaintiff's activities and is likely based  
4 solely on her self-reports.

5 Second, the court holds no hope that rescheduling the trial would result in anything  
6 than more of the same. As recounted in the May 8, 2007 order, throughout this litigation,  
7 plaintiff has requested continuance after continuance. It is odd for a plaintiff to resist going  
8 to trial with such ardor, but it appears to the court that plaintiff has vociferously litigated  
9 every aspect of this case *except* the merits. As previously stated, enough is enough.

10 Motion for stay or continuance is DENIED.

11 **IT IS SO ORDERED.**

12 Dated: May 22, 2007



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15 PHYLLIS J. HAMILTON  
16 United States District Judge  
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